

Appl. No. : 10/729,026
Filed : December 5, 2003

REMARKS

By way of summary, Claims 7, 9-10, 13, 15-25, and 28-66 were pending in this application. Claim 43 has been amended. No claims have been added or canceled. Accordingly, Claims 7, 9-10, 13, 15-25, and 28-66 remain pending for consideration. No new matter has been inserted through these claim amendments.

Allowable Subject Matter

Applicants thank the Examiner for the allowance of Claims 7, 9, 13, 17-21, 25, 28-30, 38-42, and 44-49 and for the indication that Claims 16, 22, 23, 32-37, and 50-66 would be allowable if rewritten in independent form. Applicants respectfully submit that, as discussed further below, the base claims from which these allowable claims depend are allowable in view of terminal disclaimer documents filed herewith. Therefore, Applicants request that the Examiner withdraw objections to Claims 16, 22, 23, 32-37, and 50-66 as discussed further below.

Summary of Examiner's Objection and Rejections

The Examiner objected to Claim 43 under 37 C.F.R. § 1.75(b), asserting that it does not "differ substantially" from the subject matter of Claim 34. The Examiner also rejected Claim 43 under 35 U.S.C. § 112, as lacking antecedent basis. The Examiner rejected Claims 15 and 31 on the ground of nonstatutory, obviousness-type double patenting over Claim 2 of U.S. Patent No. 6,387,037. The Examiner rejected Claims 10 and 24 on the ground of nonstatutory, obviousness-type double patenting over Claims 1 and 8 and Claims 1 and 7 of U.S. Patent No. 6,889,082.

Claim 43

Applicants have amended Claim 43 to depend from Claim 29 rather than Claim 31. Applicants submit that this amendment addresses the objection and rejection raised by Examiner with respect to Claim 43. Specifically, Applicants note that Claim 29 provides antecedent basis for claim terms "the first peripheral vessel" and "the second vessel." Moreover, the subject matter of Claim 43, as amended, differs from the subject matter of Claim 34. Applicants

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therefore respectfully request that the Examiner withdraw the objection and rejection of Claim 43.

Double Patenting Rejections

As noted by the Examiner, a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome a rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). The Examiner rejected Claims 15 and 31 of the present application over U.S. Patent No. 6,387,037 (the '037 patent) and rejected Claims 10 and 24 of the present application over U.S. Patent No. 6,889,082 (the '082 patent). A *Terminal Disclaimer* in connection with this application and the '037 patent is being filed concurrently herewith. A *Terminal Disclaimer* in connection with this application and the '082 patent also is being filed concurrently herewith. These terminal disclaimer documents overcome the double patenting rejections, and Applicants respectfully request that the Examiner withdraw such rejections.

SUMMARY

Applicants respectfully submit that the claims are in condition for allowance. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Also, no acquiescence or estoppel is implied by actions taken herein. For example, although changes to the claims have been made, such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

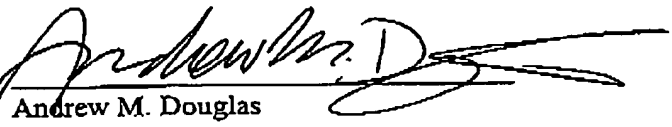
Applicants respectfully request that a Notice of Allowance be issued at the earliest opportunity.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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